

Sixty-ninth
Legislative Assembly
of North Dakota

PROPOSED AMENDMENTS TO

SENATE BILL NO. 2122

Introduced by

Industry and Business Committee

(At the request of the Commission on Uniform State Laws)

1 A BILL for an Act to create and enact chapter 32-10.1 and a new section to chapter 32-19.2 of
2 the North Dakota Century Code, relating to the Uniform Commercial Real Estate Receivership
3 Act and trustees for commercial buildings during foreclosures; to provide for a legislative
4 management study; and to provide for application.

5 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

6 **SECTION 1.** Chapter 32-10.1 of the North Dakota Century Code is created and enacted as
7 follows:

8 **32-10.1-01. Definitions.**

9 As used in this chapter:

10 1. "Affiliate" means:

11 a. With respect to an individual:

12 (1) A companion of the individual;

13 (2) A lineal ancestor or descendant, whether by blood or adoption, of:

14 (a) The individual; or

15 (b) A companion of the individual;

16 (3) A companion of an ancestor or descendant described in paragraph 2;

17 (4) A sibling, aunt, uncle, great aunt, great uncle, first cousin, niece, nephew,
18 grandniece, or grandnephew of the individual, whether related by the whole
19 or the half blood or adoption, or a companion of any of those individuals; or

20 (5) Any other individual occupying the residence of the individual; and

- 1 c. Constitute an election of remedies that precludes a later action to enforce the
2 secured obligation:
3 d. Make the secured obligation unenforceable:
4 e. Limit any right available to the mortgagee with respect to the secured obligation:
5 or
6 f. Except as otherwise provided in subsection 2, bar a deficiency judgment in
7 accordance with any other provision of law governing or relating to a deficiency
8 judgment.

- 9 2. If a receiver sells receivership property that under subsection 3 of section 32-10.1-15
10 is free of a lien, the ability of a creditor to enforce an obligation that had been secured
11 by the lien is subject to the law of this state other than this chapter relating to a
12 deficiency judgment.

13 **32-10.1-25. Uniformity of application and construction.**

14 In applying and construing this chapter, a court shall consider the promotion of uniformity of
15 the law among states that enact it.

16 **32-10.1-26. Relation to Electronic Signatures in Global and National Commerce Act.**

17 This chapter modifies, limits, or supersedes the Electronic Signatures in Global and
18 National Commerce Act [15 U.S.C. Section 7001 et seq.], but does not modify, limit, or
19 supersede section 101(c) of that act, [15 U.S.C. Section 7001(c)], or authorize electronic
20 delivery of any of the notices described in section 103(b) of that act, [15 U.S.C. Section
21 7003(b)].

22 **SECTION 2.** A new section to chapter 32-19.2 of the North Dakota Century Code is created
23 and enacted as follows:

24 **Applicability.**

25 This chapter does not apply to a commercial real estate receivership under chapter 32-10.1.

26 **SECTION 3. LEGISLATIVE MANAGEMENT STUDY - RECEIVER.** During the 2025-26
27 interim, the legislative management shall consider studying all provisions of the North Dakota
28 Century Code relating to receivers to determine whether the provisions should be consolidated
29 into a single chapter, including a review of chapters 32-10, on receivers; 32-19.2, on trustees for
30 commercial buildings during foreclosures; and 32-20, on foreclosure of liens on personal
31 property, or any other regulations regarding receivers. The legislative management shall report

1 its findings and recommendations, together with any legislation required to implement the
2 recommendations, to the seventieth legislative assembly.

3 **SECTION 4. APPLICATION.** Section 1 of this Act does not apply to a receivership for which
4 the receiver was appointed before the effective date of this Act.